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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION

ERIC GWYNN LUNDBERG AND
SUSAN RANDALL LUNDBERG

Debtors

Case No. 09-70720-RJN

Chapter 7

R. S. No. JBA-1844

OPPOSITION TO MOTION FOR RELIEF
FROM AUTOMATIC STAY
(11 U.S.C. § 362 and Bankruptcy Rule 4001)

Date: January 6, 2009
Time: 10:30a.m.
Ctrm: 220

COMES NOW, Debtors ERIC GWYNN LUNDBERG and SUSAN RANDALL LUNDBERG, DEBTORS PRO SE in opposition to the motion of WELLS FARGO BANK(NA) for relief from automatic stay (11 U.S.C. §362).

MOVANTS MOTION IS DEFECTIVE AS NOTICE WAS IMPROPER

The moving papers filed by Wells Fargo Bank (Movant) failed to include a proper notice of motion as required by Rule 9014 of the Federal Rules of Bankruptcy Procedure. Movants notice set the hearing on the motion in the past, January 6, 2009. Debtors, by filing this opposition do not waive the defective notice, or the proper notice required under Rule 9014.

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2 **MOVANT HAS FAILED TO SHOW OWNERSHIP INTEREST IN THE**

3 **SUBJECT PROPERTY**

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5 The relief from automatic stay must be denied as Movant has failed to show an ownership
6 interest in the subject property located at 5520 Ogden Court, Concord CA 94521. Further,
7 Movant has failed to show standing to request relief from automatic stay. The documents
8 submitted by Movant consist of a recorded deed of trust showing CMG Mortgage as the Lender.
9 Further, debtors are informed that the owner of the mortgage is in fact Freddie Mac. See
declarations of Eric Gwynn Lundberg and Susan Randall Lundberg and Exhibit A attached to the
declaration of Eric Gwynn Lundberg.

10

11 **THERE ARE NO EXIGENT CIRCUMSTANCES WARRANTING RELIEF FROM**

12 **THE STAY**

13

14 Movant has failed to show that circumstances exist that in any way affect the condition or
15 value of the subject property as collateral for the mortgage holder. The property is in fact well
16 maintained and in good condition. See declarations of Eric Gwynn Lundberg and Susan Randall
17 Lundberg.

18 **MOVANT IS NOT ENTITLED TO DEMAND REINSTATEMENT OF THE LOAN**

19 **AND PAYMENT OF ATTORNEY FEES AND COSTS**

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21 Debtors are currently under the protections offered by their proper filing of a Chapter 7
22 Bankruptcy. Movants received proper notice of the Meeting of Creditors which was held with
23 Trustee Tevis T. Thompson on December 9, 2009. Movants failed to attend the Meeting of
24 Creditors wherein they would have had the opportunity to question debtors and assert any rights
25 appropriate to the proceeding.

26 Debtors have set forth their intent regarding the subject property in the bankruptcy filing.
27 Movants have cited no authority to demand a different intent from the court. In addition Movants
28 has cited no authority to support their demand that the court order debtors pay attorney fees or

1 costs of any type. Debtors assert that the protection from creditors afforded by their proper filing
2 of a Chapter 7 bankruptcy preclude Movants from making such a request. Movants have made no
3 showing that Debtors are not entitled to the protections off under a lawful and proper Chapter 7
4 bankruptcy filing. Movants have made no showing that the papers files by Debtors are in any way
5 defective or improper.

6 **THE MOTION FOR RELIEF FROM STAY MUST BE DENIED**

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8 As set forth herein Movants have failed to provide proper notice. They have also failed to
9 show ownership of the subject property and therefore lack standing to request relief from stay.
10 Further, Movant has shown no circumstances warranting relief from stay or that Debtors are not
11 entitled to the protection afforded by the proper filing of a Chapter 7 bankruptcy with the court.

12 Debtors ERIC GWYNN LUNDBERG AND SUSAN RANDALL LUNDBERG
13 respectfully requests the court to deny Movants Motion for Relief From Stay, For Reinstatement
14 of the Terms of the Loan and for Attorney Fees and Costs.

16 Dated: December 15, 2009

18 Signed: 
19 Eric Gwynn Lundberg, Debtor Pro Se

21 Signed: 
22 Susan Randall Lundberg, Joint Debtor Pro Se